

United States District Court
Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LEWIS W. JOHNSON,

Plaintiff,

V.

PATRICIA HERNANDEZ,

Defendant.

Case No. 19-cv-03936-YGR (PR)

(9th Cir. Case No. 20-16060)

**ORDER REVOKING *IN FORMA
PAUPERIS* STATUS AND DENYING
PENDING MOTIONS AS
UNNECESSARY**

This closed federal civil rights action, which is currently on appeal, was filed by a *pro se* state prisoner. Plaintiff has filed an application for a certificate of appealability (“COA”) and a request for preparation of transcripts on appeal. Dkts. 15, 18. However, a COA formerly known as a certificate of probable cause to appeal, is only required in a habeas corpus proceeding. *See* 28 U.S.C. § 2253(c). Therefore, Plaintiff’s request for a COA is DENIED as unnecessary. Dkt. 15. Meanwhile, Plaintiff’s request for preparation of transcripts on appeal is more properly brought directly in the Court of Appeals. Therefore, that request is DENIED without prejudice to bringing directly in the Court of Appeals. Dkt. 18.

The Court of Appeals has referred the matter to this Court for a determination whether Plaintiff's *in forma pauperis* ("IFP") status should continue for this appeal. This Court determines that it should not. There are no valid grounds on which an appeal can be based. Consequently, the Court certifies that any appeal taken from the order of dismissal and judgment of this action will not be taken in good faith and is therefore frivolous. Fed. R. App. P. ("FRAP") 24(a)(3)(A); *Ellis v. United States*, 356 U.S. 674, 674-75 (1958); *Hooker v. American Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002). Accordingly, Plaintiff's IFP status is hereby REVOKED. The Clerk of the Court shall forthwith notify Plaintiff and the Court of Appeals of this order. *See* FRAP 24(a)(4). Plaintiff may file a motion for leave to proceed IFP on appeal in the Court of Appeals within thirty days after service of notice of this order. *See* FRAP 24(a)(5). Any such motion "must include a copy of the affidavit filed in the district court and the district court's statement of reasons for its

1 action.” *Id.*

2 This Order terminates Docket Nos. 15 and 18.

3 IT IS SO ORDERED.

4 Dated: June 25, 2020


5 YVONNE GONZALEZ ROGERS
6 United States District Judge

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8 cc to US Court of Appeals via email

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